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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY,

Defendant.

CR 05-60008 HO

MOTION TO STRIKE OVERT ACT
“A”

Defendant, Pirouz Sedaghaty, by and through his attorneys, Lawrence Matasar and Federal Public Defender Steven T. Wax, hereby moves the Court for an order

striking Overt Act "A" from the indictment.

In Count One of the indictment, the government alleges that a conspiracy to defraud the United States government took place from late 1999, through October 2001. In the government's alleged Overt Acts of the Conspiracy, the government includes one overt act that occurred before the defined time-frame of the conspiracy. Overt Act "A" is an act that occurred in February 1999. Because this falls outside of the defined time-frame of the conspiracy, this overt act should be stricken from the indictment. *Marshall v. United States*, 355 F.2d 999, 1004 (9th Cir. 1966) ("There is no question that the overt acts charged must effect the object to the conspiracy, and until the conspiracy comes into existence, no act occurring prior thereto can effect it.").

Mr. Sedaghaty respectfully requests that Overt Act "A" be stricken from the indictment.

RESPECTFULLY SUBMITTED this 4th day of May, 2010.

/s/ Steven T. Wax
Steven T. Wax
Federal Public Defender

/s/ Lawrence H. Matasar
Lawrence H. Matasar